

House Bill 405

By: Representatives Knight of the 130th, Carpenter of the 4th, Stephens of the 164th, Kelley of the 16th, and Beasley-Teague of the 65th

A BILL TO BE ENTITLED
AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to property tax exemptions, so as to modify provisions related to the Level 1 Freeport Exemption to include affiliated entities and inventory held for the repair or modification of goods; to provide for a definition; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to property tax exemptions, is amended by revising subsections (b) and (c) of Code Section 48-5-48.2, relating to the Level 1 Freeport Exemption, as follows:

"(b) As used in this Code section, the term:

(1) 'Affiliates' means those entities that are part of an affiliated group of the taxpayer as defined in Section 1504(a) of the Internal Revenue Code and all other entities that are directly or indirectly owned 50 percent or more by members of the affiliated group.

~~(1)~~(2) 'Destined for shipment to a final destination outside this state' means, for purposes of a level 1 freeport exemption, that portion or percentage of an inventory of finished goods which the taxpayer can establish, through a historical sales or shipment analysis, either of which utilizes information from the preceding calendar year, or other reasonable, documented method, is reasonably anticipated to be shipped to a final destination outside this state. Such other reasonable, documented method may only be utilized in the case of a new business, in the case of a substantial change in scope of an existing business, or in other unusual situations where a historical sales or shipment analysis does not adequately reflect future anticipated shipments to a final destination outside this state. It is not necessary that the actual final destination be known as of January 1 in order to qualify for the exemption.

~~(2)~~(3) 'Finished goods' means, for purposes of a level 1 freeport exemption, goods, wares, and merchandise of every character and kind but shall not include unrecovered, unextracted, or unsevered natural resources or raw materials or goods in the process of manufacture or production or the stock in trade of a retailer.

~~(3)~~(4) 'Foreign merchandise in transit' means, for purposes of a level 1 freeport exemption, any goods which are in international commerce where the title has passed to a foreign purchaser and the goods are temporarily stored in this state while awaiting shipment overseas.

~~(4)~~(5) 'Fulfillment center' means, for purposes of a level 1 freeport exemption, a business location in Georgia which is used to pack, ship, store, or otherwise process tangible personal property sold by electronic, ~~Internet~~ internet, telephonic, or other remote means, provided that such a business location does not allow customers to purchase or receive goods onsite at such business location.

~~(5)~~(6) 'Raw materials' means, for purposes of a level 1 freeport exemption, any material, whether crude or processed, that can be converted by manufacture, processing, or a combination thereof into a new and useful product but shall not include unrecovered, unextracted, or unsevered natural resources.

~~(6)~~(7) 'Stock in trade of a fulfillment center' means, for purposes of a level 1 freeport exemption, goods, wares, and merchandise held by one in the business of making sales of such goods when such goods are held or stored at a fulfillment center.

~~(7)~~(8) 'Stock in trade of a retailer' means, for purposes of a level 1 freeport exemption, finished goods held by one in the business of making sales of such goods at retail in this state, within the meaning of Chapter 8 of this title, when such goods are held or stored at a business location from which such retail sales are regularly made. Goods stored in a warehouse, dock, or wharf, including a warehouse or distribution center which is part of or adjoins a place of business from which retail sales are regularly made, shall not be considered stock in trade of a retailer to the extent that the taxpayer can establish, through a historical sales or shipment analysis, either of which utilizes information from the preceding calendar year, or other reasonable, documented method, the portion or percentage of such goods which is reasonably anticipated to be shipped outside this state for resale purposes.

(c) The governing authority of any county or municipality may, subject to the approval of the electors of such political subdivision, exempt from ad valorem taxation, including all such taxes levied for educational purposes and for state purposes, all or any combination of the following types of tangible personal property:

(1) Inventory of goods in the process of manufacture or production which shall include all partly finished goods and raw materials held by the taxpayer, the taxpayer's affiliate,

or the taxpayer's designated agent for direct use or consumption in the ordinary course of the taxpayer's manufacturing or production business in this state. The exemption provided for in this paragraph shall apply only to tangible personal property which is substantially modified, altered, combined, or changed in the ordinary course of the taxpayer's manufacturing, processing, or production operations in this state. For purposes of this paragraph, the following activities shall constitute substantial modification in the ordinary course of manufacturing, processing, or production operations:

(A) The cleaning, drying, pest control treatment, or segregation by grade of grain, peanuts or other oil seeds, or cotton;

(B) The remanufacture of aircraft engines or aircraft engine parts or components, meaning the substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or components;

(C) The blending of fertilizer bulk materials into a custom mixture, whether performed at a commercial fertilizer blending plant, retail outlet, or any application site; ~~and~~

(D) The substantial assembly of finished parts; and

(E) The remanufacture, which includes repair or modification of goods manufactured, processed, or produced by the taxpayer;

(2) Inventory of finished goods manufactured or produced within this state in the ordinary course of the taxpayer's manufacturing or production business when held by the original manufacturer or producer of such finished goods. The exemption provided for in this paragraph shall be for a period not exceeding 12 months from the date such property is produced or manufactured;

(3) Inventory of finished goods which, on January 1, are stored in a warehouse, dock, or wharf, whether public or private, and which are destined for shipment to a final destination outside this state and inventory of finished goods which are shipped into this state from outside this state and stored for transshipment to a final destination outside this state, including foreign merchandise in transit. The exemption provided for in this paragraph shall be for a period not exceeding 12 months from the date such property is stored in this state. Such period shall be determined based on application of a first-in, first-out method of accounting for the inventory. The official books and records of the warehouse, dock, or wharf where such property is being stored shall contain a full, true, and accurate inventory of all such property, including the date of the receipt of the property, the date of the withdrawal of the property, the point of origin of the property, and the point of final destination of the same, if known. The official books and records of any such warehouse, dock, or wharf, whether public or private, pertaining to any such property for which a freeport exemption has been claimed shall be at all times open to the

99 inspection of all taxing authorities of this state and of any political subdivision of this
100 state; or

101 (4) Stock in trade of a fulfillment center which, on January 1, is stored in a fulfillment
102 center and which is made available to remote purchasers who may make such purchases
103 by electronic, ~~Internet~~ internet, telephonic, or other remote means, and where such stock
104 in trade of a fulfillment center will be shipped from the fulfillment center and delivered
105 to the purchaser at a location other than the location of the fulfillment center. The
106 exemption provided for in this paragraph shall be for a period not exceeding 12 months
107 from the date such property is stored in this state. Such period shall be determined based
108 on application of a first-in, first-out method of accounting for the inventory. The official
109 books and records of the fulfillment center where such property is being stored shall
110 contain a full, true, and accurate inventory of all such property, including the date of the
111 receipt of the property and the date of the withdrawal of the property. The official books
112 and records of any such fulfillment center pertaining to any such property for which a
113 freeport exemption has been claimed shall be at all times open to the inspection of all
114 taxing authorities of this state and of any political subdivision of this state."

115 **SECTION 2.**

116 All laws and parts of laws in conflict with this Act are repealed.